

1 UNITED STATES DEPARTMENT OF JUSTICE
CIVIL DIVISION
2 JOSEPH H. HUNT
Assistant Attorney General
3 RUTH A. HARVEY
Director
4 KIRK MANHARDT
Deputy Director
5 MATTHEW J. TROY (GABN 717258)
Senior Trial Counsel
6 P.O. Box 875
Ben Franklin Station
7 Washington, DC 20044-0875
Telephone: (202) 514-9038
8 E-mail: matthew.troy@usdoj.gov

9 DAVID L. ANDERSON (CABN 149604)
United States Attorney
10 ROBIN M. WALL (CABN 235690)
Assistant United States Attorney
11 Attorneys for the United States of America

12 **UNITED STATES BANKRUPTCY COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN FRANCISCO DIVISION**

15 In re:)	
16 PG&E CORPORATION	)	Bankruptcy Case
17 - and -	)	No. 19-30088 (DM)
18 PACIFIC GAS AND ELECTRIC	)	Chapter 11
19 COMPANY,	)	(Lead Case)
20 Debtors.	)	(Jointly Administered)
21	)	Date: July 24, 2019
22	)	Time: 9:30 a.m.
23 <input type="checkbox"/> Affects PG&E Corporation	)	Place: United States Bankruptcy Court
24 <input type="checkbox"/> Affects Pacific Gas and Electric Company	)	450 Golden Gate Avenue
25 <input checked="" type="checkbox"/> Affects both Debtors	)	Courtroom 17
	)	San Francisco, CA 94102
	)	Judge: Hon. Dennis Montali
	)	RE: Docket No. 2741
)	
)	

26 **RESPONSE OF THE UNITED STATES OF AMERICA TO MOTION OF THE AD HOC**
27 **COMMITTEE OF SENIOR UNSECURED NOTEHOLDERS TO TERMINATE THE**
28 **DEBTORS' EXCLUSIVE PERIODS PURSUANT TO SECTION 1121(d)(1) OF THE**
BANKRUPTCY CODE

1 The United States of America, on behalf of various federal agencies, including but not limited to,
2 the United States Department of Agriculture, United States Forest Service; and the Department of the
3 Interior, Bureau of Land Management, and the National Park Service, hereby files this response to the
4 *Motion of the Ad Hoc Committee of Senior Unsecured Noteholders to Terminate the Debtors' Exclusive*
5 *Periods Pursuant to Section 1121(d)((1) of the Bankruptcy Code* (the "Motion").¹

6 Collectively, the United States holds significant claims against the Debtors resulting from the
7 prepetition Northern California wildfires. These claims include, but are not limited to, (i) costs of
8 suppressing wildfires on federal lands; (ii) damage to federal lands and the resources they contain
9 including timber, habitat, wildlife, soil, and watersheds as well as the scenic, aesthetic, historic,
10 archeological, and recreational values of those lands; and (iii) reforestation and other costs associated
11 with stabilizing, rehabilitating, and restoring federal lands.² Under the law of this circuit, the United
12 States is "entitled to *full* compensation for *all* of its damages." *U.S. v. CB & I Constructors, Inc.*, 685
13 F.3d 827, 835 (9th Cir. 2012) (quoting *U.S. v. Union Pac. R.R. Co.*, 565 F. Supp. 2d 1136, 1143 (E.D.
14 Cal. 2008)) (emphasis in original). Those damages encompass "intangible [non-economic]
15 environmental damages because anything less would not compensate the public for all of the harm
16 caused by the fire." *CB & I Constructors, Inc.*, 685 F.3d at 837.

17 The Motion seeks to terminate the Debtors' exclusive periods under 11 U.S.C. § 1121(d) and
18 requests permission for the Ad Hoc Committee to file and solicit a plan of reorganization. In support,
19 the Ad Hoc Committee attaches as an exhibit to the Motion the Term Sheet detailing the key
20 components of an allegedly "viable, confirmable plan of reorganization," *Motion* at 4, including a
21 Wildfire Claims Trust "used to compensate all holders of prepetition fire claims," *id.* The Term Sheet
22 imposes a \$16 billion cap (plus a possible, maximum 15% upward adjustment) for funding that trust,
23 *Motion, Exh. B* at 23, which is "sole source of recovery for the Wildfire Claims against the Debtors,"
24 and to which all Wildfire Claims must be channeled for resolution and payment, *id.* at 15. The exact
25

26 ¹ Terms not otherwise defined herein shall have the meaning ascribed to them in the Motion and
27 accompanying exhibits.

28 ² The description of the United States' claims in this Response is without prejudice, and the
United States expressly reserves its right, to assert other claims arising out of the Northern California
wildfires or any other claims not related to the Northern California wildfires.

1 amount of the funding for Wildfire Claims Trust, subject to the cap, will be established in an estimation
2 proceeding concluding before the commencement of the plan confirmation hearing. *Id.* at 14.

3 The United States takes no position with respect to the Motion's requested relief, i.e., termination
4 of exclusivity and authorization for the Ad Hoc Committee to file and solicit a plan of reorganization.
5 By doing so and not objecting to that relief, however, the United States is not waiving, and expressly
6 reserves, any and all rights with respect to the terms of any such plan, including those reflected in the
7 Term Sheet. Specifically, the United States reserves its right to object to any plan that purports to
8 classify the United States' fire related claims as Wildfire Claims whose only source of recovery is the
9 Wildfire Claims Trust or any other similar litigation trust with a channeling injunction and a capped
10 funding amount established pursuant to an estimation proceeding.

11
12 Date: July 16, 2019

Respectfully submitted,

13 JOSEPH H. HUNT
14 Assistant Attorney General
15 DAVID L. ANDERSON (CABN 149604)
16 United States Attorney
17 ROBIN M. WALL (CABN 235690)
18 Assistant United States Attorney

19 /s/ Matthew J. Troy
20 RUTH A. HARVEY
21 Director
22 KIRK MANHARDT
23 Deputy Director
24 MATTHEW J. TROY
25 Senior Trial Counsel
26 Attorneys for United States

27
28
CERTIFICATE OF SERVICE

23 I hereby certify that on July 16, 2019, I electronically filed the foregoing Response with the Clerk of the Court by
24 using the CM/ECF system, which will send a notice of electronic filing to all CM/ECF participants.

25 /s/ Matthew J. Troy
26 Matthew J. Troy
27 Senior Trial Counsel
28 Attorney for United States